

**SUBPART 232.5—PROGRESS PAYMENTS BASED ON COSTS**

**232.501 General.**

In DoD, customary progress payments may be either uniform or flexible (FAR 32.501-1(a)). See also 232.501-1 and 232.502-1-71.

**232.501-1 Customary progress payment rates.**

(a)(i) The customary uniform progress payment rate for DoD contracts is 75 percent for large businesses, 90 percent for small businesses, and 95 percent for small disadvantaged businesses.

(ii) The progress payment rates applicable to foreign military sale requirements are the same rates applicable to DoD requirements.

(iii) For customary flexible progress payments, determine the appropriate rate using the appropriate CASH computer program (see 232.502-1-71).

**232.501-2 Unusual progress payments.**

(a) Unusual progress payment arrangements require the advance approval of the USD(A&T)DP. Contracting officers shall submit all unusual progress payment requests to the department or agency contract financing office for approval, coordination with the Contract Finance Committee (232.171), and submission to the USD(A&T)DP.

**232.501-3 Contract price.**

(b) The contracting officer may approve progress payments when the contract price exceeds the funds obligated under the contract; provided, the contract contains an appropriate Limitation of Funds clause. However, the contracting officer shall limit such payments to the lesser of—

(i) The applicable rate (i.e., the lower of the progress payment rate, the liquidation rate, or the loss-ratio adjusted rate); or

(ii) 100 percent of the funds obligated.

**232.502 Preaward matters.**

**232.502-1 Use of customary progress payments.**

(b)(1) If the contractor is a small disadvantaged business, progress payments may be provided when the contract will involve \$50,000 or more.

**232.502-1-70 Customary foreign military sale progress payments.**

(a) Foreign military sale (FMS) progress payments apply to DoD acquisitions on behalf of foreign governments or international organizations (Section 22 of the Arms Export Control Act).

(b) FMS progress payments do not apply to acquisitions—

- (1) For replenishing U.S. Government inventories or stocks; and
- (2) Made under DoD cooperative logistic support arrangements.

**232.502-1-71 Customary flexible progress payments.**

(a) *General.*

(1) Progress payments reduce contractor investment in work in process inventory. In addition to progress payments, other factors influence a contractor's actual investment in work in process inventory, e.g., delivery schedules, cash management practices, and Government payment practices.

(2) Progress payment amounts that are determined by using customary uniform rates are insensitive to the other factors influencing contractor investment in work in process inventory. Consequently, contractor investments in work in process inventory vary among contractors and contracts.

(3) Flexible progress payment rates are designed to tailor the progress payment rate to more closely match the contractor's cash needs for financing contract performance. The flexible rate is expressed as a percentage which is applied to costs to determine the amount payable as a progress payment, in the same manner as customary uniform rates are applied.

(4) For flexible progress payments, cash needs are measured and projected based on the investment required for the work in process inventory over the life of the contract. Total investment is measured by a weighted average of total costs paid by the contractor. The contractor's investment is the weighted average of the amount not paid by the Government.

(5) DoD, as a matter of policy, requires contractors to retain a minimum investment level in work in process inventory over the life of the contract (see Table 32-1, Customary Uniform Progress Payment Rates). This minimum investment level is based on the customary uniform progress payment rate and its related investment percentage. Accordingly, the DoD will make progress payments at a rate (expressed as a whole number) that is the highest rate which yields a corresponding investment by the contractor in work in process inventory of not less than the minimum investment percentage.

(6) The customary flexible progress payment rate will be determined by using the DoD Cash Flow Computer Model. The rate computed shall not—

- (i) Exceed 100 percent; or
- (ii) Be less than the customary uniform progress payment rate that would have been applied to the contract in the absence of customary flexible progress payments.

(7) Table 32-1, Customary Uniform Progress Payment Rates, shows the customary uniform progress payment rates for other than small or small disadvantaged

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businesses (see also 232.501-1), minimum contractor investment (except for contracts funded with FY87 appropriations), and the applicable DoD Cash Flow Computer Model. For contracts or line items that are funded with FY87 appropriations, a contractor must retain at least a 25 percent investment in work in process inventory over the life of the contract or over the contract performance period applicable to the contract line item.

**TABLE 32-1, CUSTOMARY UNIFORM PROGRESS PAYMENT RATES**

Contract Award Date	Uniform Rate Percentage	Investment Percentage	Cash Flow Model
Prior to May 1, 1985	90%	5%	CASH-II
May 1, 1985 through October 17, 1986	80%	15%	CASH-III
October 18, 1986 through September 30, 1988	75%	25%	CASH-IV
October 1, 1988 Through June 30, 1991	80%	20%	CASH-V
After June 30, 1991*	85%	20%	CASH-VI**
* Flexible progress payments shall not be used for contracts awarded as a result of solicitations issued on or after November 11, 1993.			
** See paragraph (b)(5)(ii) for implementation instructions.			

*(b) Using customary flexible progress payments.*

(1) Use a flexible progress payment rate at the time of award or definitization instead of the customary uniform rate if—

(i) The contractor requests flexible progress payments;

(ii) The contractor agrees to the requirements of this section;

(iii) The contract contains the clause at FAR 52.232-16, Progress Payments. However, small business contractors may get flexible progress payments if they agree to use the clause at FAR 52.232-16 without its Alternate I; and

(iv) The criteria in paragraphs (b)(2) and (3) of this subsection are met.

(2) Do not use flexible progress payments for—

(i) Sealed bid contracts;

(ii) Undefinitized contract actions; or

(iii) Contracts awarded and performed entirely outside of the United States, its possessions or territories.

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(3) Contractors who submit cost or pricing data, as defined in FAR 15.401, for negotiated fixed-price contracts in excess of \$1 million may request flexible progress payments.

(4) Subcontractors who request flexible progress payments, meet the criteria in paragraph (b)(3) of this subsection, and agree to the requirements of this subsection are to receive flexible progress payments. The prime contractor determines the flexible progress payment rate without regard to the rate in the prime contract. In determining the appropriate customary flexible rate, the prime contractor will use the DoD Cash Flow Computer Model and review the cash flow data provided by the subcontractor.

(5) Prior to contract award, the contracting officer shall determine the customary flexible progress payment rate by applying the appropriate version of the DoD Cash Flow Computer Model.

(i) The model takes into account key cash flow factors including contract cost profile, delivery schedules, subcontractor progress payments, liquidation rates, and payment/reimbursement cycles. For contracts funded with FY87 appropriations, use the CASH-IV model.

(ii) From time to time the Department of Defense may change the uniform progress payment rate and/or the minimum contractor investment rate, which may have an effect upon the variables within the DoD Cash Flow Computer Program. In order to avoid frequent revision and redistribution of the computer program, the program is designed to permit use of either a particular model (CASH-II, CASH-V, etc.) or a program option to input the equivalent uniform progress payment rate and minimum contractor investment rate (90%/5%, 80%/20%, etc.), as shown in the table at (a)(7). Either method will result in the same flexible progress payment rate calculation. When the Cash Flow Computer Program does not contain the model needed for a particular situation, the contracting officer shall use the program option.

(6) If the contractor requests flexible progress payments after contract award or definitization, the contracting officer may, if warranted, grant their use. However, the contractor must provide adequate new consideration (see FAR 32.501-4).

(c) *Contractor cash flow and cost information.*

(1) Contractors shall furnish to the contracting officer cash flow data in the form and context specified for use in the DoD Cash Flow Computer Model. Contractors should furnish cash flow data prior to the start of negotiations. This data includes—

(i) Actual and projected incurred cost, broken down by element of cost and by month, for the duration of the contract;

(ii) Float times for each element of cost;

(iii) Dates and lag times of actual and projected progress payment and delivery payment receipts; and

(iv) Associated contract price and profit percentage.

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(2) Contracting officers shall verify the cash flow data using the procedures normally used to verify contractor cost and pricing data, and establish the customary flexible progress payment rate during the negotiation of the contract price.

(3) If any customary flexible progress payment rate is later determined to be overstated because factual data submitted in support of the rate computation was not current, accurate, or complete at the time the rate was established, the flexible progress payment clause at 252.232-7003 provides for—

- (i) Reduction of the flexible progress payment rate; and
- (ii) Contractor payment of interest.

(4) The contracting officer will assess the interest charge on the amount of the overpayment resulting from facts that were not current, accurate, or complete, whether or not the overpayment has been liquidated. Calculate the interest from the date of the overpayment to the date of liquidation of the overpayment. In determining the amount of interest, the contracting officer may determine an average overpayment amount and duration as the basis for the interest computation. Interest rates change periodically; therefore, calculate average amounts and durations separately for each interest period that has a different interest rate.

(5) Administrative contracting officers are encouraged to establish advance agreements at contractor locations for payment float and lag times which are common to several contracts. Float and lag times may vary significantly from one contract to another due to variances in efficiency at different payment offices or due to differing procedures for high dollar versus low dollar value contracts. It may, therefore, be appropriate to establish advance agreements on several different float and lag profiles to suit different contract situations.

(d) *Rate review.*

(1) The flexible progress payment clause at 252.232-7003 provides for redetermination of the customary flexible progress payment rate whenever the computed investment percentage is more than two points above or below the specific minimum investment in work in process inventory (see Table at 232.502-1-71(a)(7)). When such a redetermination is made—

- (i) Apply the new customary flexible progress payment rate to the next contractor progress payment request; and
- (ii) Adjust the unliquidated progress payment balance.

(2) Either the Government or the contractor may request a rate review at any time to determine if the computed investment percentage in work in process inventory is outside of the investment tolerance in paragraph (d)(1) of this subsection. For contracts funded with FY87 appropriations, the investment range is 23 to 27 percent with a target of 25 percent.

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(3) The administrative contracting officer shall assess changes in the following factors during each periodic review required by FAR 32.503-5 and shall review the customary flexible progress payment rate whenever there has been—

- (i) A significant change in the float or lag factors;
- (ii) A significant change in the delivery schedule; or
- (iii) Substantial work added to or deleted from the contract.

(e) *Letter contracts and undefinitized orders.* When flexible progress payments are contemplated for use on a definitized contract superseding a letter contract or an unpriced BOA order, the applicable uniform customary progress payment rate shall be used until definitization. The flexible progress payment rate shall be determined by the contracting officer before definitizing the contract or order.

(f) *Availability of CASH program and user's guide.* The flexible progress payment program CASH and the user's guide are available to offerors and contractors from the contracting officer.

**232.502-4 Contract clauses.**

**232.502-4.70 Additional clauses.**

(a) Use the clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions, in any contract that provides for progress payments and contains foreign military sale requirements.

(b) Use the clauses at 252.232-7003, Flexible Progress Payments, and 252.232-7004, DoD Progress Payment Rates, in contracts using a customary flexible progress payment rate.

(c) Use the clause at 252.232-7004, DoD Progress Payment Rates, in addition to the clauses prescribed at FAR 32.502-4.

**232.503 Postaward matters.**

**232.503-6 Suspension or reduction of payments.**

(b) *Contractor noncompliance.* See also 242.7503.

(g) *Loss contracts.* Use the following loss ratio adjustment procedures for making adjustments required by FAR 32.503-6(f) and (g)—

(i) Except as provided in paragraph (g)(ii) of this subsection, the contracting officer shall prepare a supplementary analysis of the contractor's request for progress payments and calculate the loss ratio adjustment using the procedures in FAR 32.503-6(g).

(ii) The contracting officer may request the contractor to prepare the supplementary analysis as an attachment to the progress payment request when the

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contracting officer determines that the contractor's methods of estimating the "Costs to Complete" are reliable, accurate, and not susceptible to improper influences.

(iii) To maintain an audit trail and permit verification of calculations, do not make the loss ratio adjustments by altering or replacing data on the contractor's original request for progress payment (SF 1443, Contractor's Request for Progress Payment, or computer generated equivalent).

#### **232.503-15 Application of Government title terms.**

(d) An administrative contracting officer (ACO) determination that the contractor's material management and accounting system conforms to the standard at 252.242-7004(f)(7) constitutes the contracting officer approval requirement of FAR 32.503-15(d). Prior to granting blanket approval of cost transfers between contracts, the ACO should determine that—

(i) The contractor retains records of the transfer activity that took place in the prior month;

(ii) The contractor prepares, at least monthly, a summary of the transfer activity that took place in the prior month; and

(iii) The summary report includes as a minimum, the total number and dollar value of transfers.